MARITIME INDUSTRY AUSTRALIA LIMITED

# Inquiry into the Implications of the COVID-19 Pandemic on Australia's Foreign Affairs Defence and Trade

Submission

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# About MIAL

Maritime Industry Australia Ltd (MIAL) is the voice and advocate for the Australian maritime industry. MIAL is at the centre of industry transformation; coordinating and unifying the industry and providing a cohesive voice for change.

MIAL represents Australian companies which own or operate a diverse range of maritime assets from international and domestic trading ships; floating production storage and offloading units; cruise ships; offshore oil and gas support vessels; domestic towage and salvage tugs; scientific research vessels; dredges; workboats; construction and utility vessels and ferries. MIAL provides a full suite of maritime knowledge and expertise from local settings to global frameworks. This gives us a unique perspective.

We work with all levels of government, local and international stakeholders ensuring that the Australian maritime industry is heard. We provide leadership, advice and assistance to our members spanning topics that include workforce, environment, safety, operations, fiscal and industry structural policy.

MIAL's vision is for a strong, thriving and sustainable maritime enterprise in the region.

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MARITIME INDUSTRY AUSTRALIA LIMITED

# Implications of the COVID-19 Pandemic for Australia's Foreign Affairs, Defence and Trade

## Introduction

Maritime Industry Australia Ltd (MIAL) thanks the Joint Standing Committee of Foreign Affairs, Defence and Trade for the opportunity to provide a submission into this important Inquiry.

Clearly, the COVID-19 global pandemic has had far reaching impacts on human health, welfare and the economy in Australia as it has over the world. Along with other essential services, shipping has continued to operate, albeit under significant strain.

This submission provides an overview of relevant key elements of how the shipping industry works, both domestically and internationally and in addressing the Inquiry terms of reference, highlights some of the important national vulnerabilities that have been exposed and exacerbated as a result of the COVID-19 global pandemic.

### Inquiry Terms of Reference addressed

Our submission provides detail of some of the national vulnerabilities exposed as a result of the COVID-19 global pandemic and proposes a rationale and policy recommendations to address those vulnerabilities. This submission addresses the strategic implications of the following Terms of Reference which form part of the Inquiry:

- Implications for Australia's Foreign Affairs, Defence and Trade policy, particularly with respect to strategic alliances and regional security.
- The impact on human rights.
- Supply chain integrity / assurance to critical enablers of Australian security (such as health, economic and transport systems, and defence).
- What policy and practical measures would be required to form an ongoing effective national framework to ensure the resilience required to underpin Australia's economic and strategic objectives.

## Key elements of the shipping industry relevant to the Inquiry

Australia's maritime activity consists of domestic and international trade, activities servicing the offshore oil and gas industry, cruise and passenger ships, towage, port services, dredging, scientific research, government services and marine construction.

International shipping underpins the global economy. International shipping is responsible for over 90% of Australian trade. Furthermore, most domestic trade around Australia is conducted on international ships with international crews.

Significant parts of the Australian economy rely on the maritime industry to keep the offshore oil and gas sector functioning; and to our nations ports working which in turn facilitate the movement of ships which are essential to our national supply chains and ensuring Australian exports get to market.

Both international and domestic seafarers provide essential skills that keep the Australian economy afloat and ensure essential supply chains continue to operate.

Australia requires highly qualified mariners to operate the ships crewed with Australians, and to provide critical shore-based services such as marine pilots, harbor masters, ship surveyors and equipment specialists. These shore-based roles invariably following a career at sea gaining the necessary qualifications and experience.

Crew work on board ships for shifts/swings ranging from ~ 5 weeks (such as in the offshore oil and gas sector globally and across the Australian shipping sector) up to 11 months (foreign flagged and crewed vessels) at a time. Shift/swing length, shore leave and repatriation standards along with other working and living conditions, such as the payment of wages, sanitation, access to food and medical care are described in the Maritime Labour Convention (MLC), to which Australia is a signatory. The MLC is given effect in Australia through the Navigation Act 2012 and delegated legislation, specifically Marine Order 11, which is enforced on Australian ships (flag State control, or FSC) and foreign ships visiting Australian ports (port State control, or PSC) by the Australian Maritime Safety Authority (AMSA).

### International shipping

International shipping is a truly global industry. Ships owned or managed in one country can be registered (flagged) in another and operate with a crew on board from diverse nationalities. Decisions relating to the country of registration of vessels (flag) are, understandably, often made to minimise costs and maximise profit, while working within international law and the shipping regulations of different nation states that they operate within.

All nations that have large fleets controlled under their flag/registration recognise the benefits associated with having a strong shipping industry, such as the creation of skills; revenue generation from the ensuing economic clusters that develop in support of large fleets[1]; control of critical strategic assets; supply chain security and economic diversity. To secure such an industry these nations offer a wide range of incentives, direct subsidisation, apply protectionist measures, or in some cases a combination of all three.

These ships can visit ports all over the world or be assigned to a dedicated trade or route. In either case, to continue to operate safely, in line with international conventions and to protect the welfare of crew, shipping companies must be able to move people across national and internal domestic borders to allow for change out of personnel, known as crew change.

[1] Oxford Economics, "The economic impact of the UK Maritime Services Sector: Shipping", May 2015

Australia's immigration framework allows international crew working on board a ship enter Australia on a maritime crew visa (MCV), to stay as long as their vessel is in Australia or their contract allows – which could be up to 11 months; allows international crew to enter to join a foreign ship and leave a foreign ship and depart Australia for the purpose of conducting a crew changes via a transit visa. These visas are time limited and specific to their purpose.

### Domestic maritime activity

As noted in our opening remarks, Australia has a diverse range and volume of maritime activity particularly in the domestic commercial vessel sector. However, the Australian controlled trading fleet has been in steady decline for decades and the few remaining ships (either Australian registered or Australian crewed) are mostly on dedicated trades. Our freight task (domestic and international) is almost entirely undertaken by foreign ships with foreign crews. At the same time, the offshore oil and gas sector, is notoriously boom and bust and is currently enduring a prolonged downturn which will not recover until the oil price rises and exploration activity commences again. With these two sectors of the industry in decline and without wider opportunities for employment and training, Australia now faces a maritime skills crisis, which has the potential to ultimately effect our capacity to safely and efficiently operate our ports, greatly impacting trade and decimating our national economy.

In the domestic industry, ships' crews effectively operate on a fly in-fly out (FIFO) basis – workers join the vessel for 4 – 6 weeks (or longer) and then return home for a break. While 'at work' there is limited time ashore and certainly nothing that resembles a normal life. Crew live anywhere and fly to their 'work'. The choice of 'home' location is dependent on many things and of course entirely reliant on the circumstances of the individual. That said, in many cases the choice of home location is often dictated by where any family might have support close by (rather than being near to where work might be carried out).

## Addressing the Terms of Reference

The following information provides detail relating to the impacts of the COVID-19 global pandemic on the shipping industry, reasons why those impacts are being felt so acutely, and proposes policy solutions, both short term and long term, to address future concerns relating to the subject matter of this Inquiry.

## ToR: Impact on human rights

There are several welfare and human rights issues effecting the shipping industry that have arisen as a result of the COVID-19 global pandemic.

Two major factors have contributed globally to an impossible situation for seafarers, shipowners and the world.

1. Countries closed their borders entirely or put in place measures to limit entries and departures.
2. Flights evaporated overnight and remain scarce.

In combination, these makes it incredibly difficult to move people around at all and almost impossible to move people around in a way that allows them to arrive or depart on a reliable schedule.

During the early days of the pandemic, shipowners managed the risk of infection to their crews by deferring crew changes; eliminating shore leave and deny entry onboard to any but essential visitors. The ships became, in effect, citadels and were some of the safest places to be. These measures however are not sustainable and ships crews need to be relieved, they need to have some rest and recreation time ashore throughout their work cycle and ships require maintenance and upkeep from professionals outside of the permanent crew.

At the beginning of the pandemic many nations closed their borders, and some remain closed to this day, even to their own nationals. This happened a lot from the large seafarer supply nations of China, India, Philippines, Myanmar, Ukraine, to name a few.

### Crew changes - International

The COVID-19 global pandemic is causing severe seafarer welfare impacts as closure of national borders make it very difficult for crew changes to occur. Until recently, the International Transport Workers Federation has been working closely with international shipowner associations to extend seafarer employment agreements (SEA) beyond the usual terms. Under the MLC, no contract should exceed 11 consecutive months on board, but due to the circumstances of the pandemic, there have been three blanket extensions of crew contracts agreed. This means that some seafarers who had contracts for an 11-month tour of duty who were approaching the end of that service when the pandemic hit, could have been on board for 14 (or more) consecutive months.

Usually during the period of work on board a vessel, crew would be permitted 'shore leave', which means crew can disembark the vessel while it is in port. The seafarer welfare impacts of the unprecedented extensions to SEA's are exacerbated by the fact that seafarers are not able or permitted to take shore leave during that time due to national restrictions or fears of COVID-19 transmission while ashore.

There are currently approximately 300,000 seafarers in the world on ships, who have reached the conclusion of their actual (and extended) SEA's and are awaiting repatriation to their homes. This also means that there are 250,000 awaiting their opportunity to work and earn a living to support their family. For the shipping industry it means a need to move 500,000 people right now.

While many obligations under the MLC are the responsibility of shipowners, member states have committed to several actions to ensure the welfare of seafarers entering their waters. It is a clear obligation under the MLC for members to facilitate the repatriation of seafarers whose contracts have finished (or when the circumstances are such that repatriation is needed due to injury or illness) and to permit replacement seafarers to enter their jurisdictions to join ships.[2]Many ships and National signatories are now well and truly in contravention of their responsibilities under the MLC, with a significant deleterious impact on seafarer welfare. Crew on leave are unable to sign on to ships to access work, and crew on ships are unable to sign off to access leave. Shipowners and operators are working hard to make it happen, however national border closures and the limited air transport options for crew are major barriers.

The Australian situation is much the same. While technically, the National Cabinet class exemption for non-cruise maritime crew facilitates crew changes in the desired manner, it has not been implemented consistently around the country, indeed, some jurisdictions have never implemented any aspect of the agreement.

State border closures mean that some crew arriving to affect a crew change from places outside of Australia are unable to join their vessel upon arrival. In many instances they must enter hotel quarantine at their port of arrival for 14 days after which time they often must transit to another port in another state. In some circumstances they must then enter quarantine in arrival in the second jurisdiction. Furthermore, in these circumstances the usual visa's (MCV, transit visa) that would apply are no longer valid.

[2] Regulation 2.5, paragraph 7 of the MLC states "Each member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters as well as their replacement on board"

These layers of barriers, along with the extremely limited air transport options into, out of, and within Australia, have meant that it is neither practical nor, in some cases, possible to conduct crew changes in Australia as is urgently required. The fact that crew are effectively trapped on board, with no visibility of their return home to their families is a significant welfare concern. This, combined with extended periods on board without the ability to rest and regenerate at home also creates the very real risk of fatigue, endangering seafarers, ships and the marine environment in which they operate.

Example of some of the issues that exist/barriers that Australia has in place to international crew movements:

Background

Philippines countrywide lockdown eased on 15th June which then allowed seafarers based there to be able to do medicals and any certificate revalidations to be travel ready.

The Philippines also had limits on the number of returning citizens they would take that meant crew could not be repatriated.

In the Ukraine at one point the only way for seafarers to get out was by private vehicle to the border with Belarus, then walk across the border bridge to another private vehicle to hotel quarantine before any flight out.

Since these other nations have started to loosen up enough that plans could be made for seafarers to leave/return the situation in Australia has been tightening up and there has been a considerable number of flight cancelations and reduced capacities on those that did fly, particularly since the incoming passenger cap was introduced.

None of the issues encountered by shipowners have been due to companies 'leaving it to the last minute' or not being organised. They are happening because of the extremely difficult issues involved in moving people around the world and encountering all kinds of barriers with every nation. Australia is one of those and we really need to start removing barriers or becoming more responsive when issues arise. The urgency in visa processing is one such area. We appreciate that seafarers are being prioritised for visas – we would ask that this extends to those who need new visas to get OUT of the country as well as into the country (see below).

Issues: Crew leaving the country

1. Crew that should have signed off months ago but couldn't for the reasons stated above (i.e. their home country would not allow them back in), have expiring MCVs (which cannot be renewed in country) and in some cases, passports.
2. Applying for a visitor visa while in country can be impractical where the ship is sailing between ports where there is no VISA Medical approved BUPA clinic.
3. In one case the bridging visa system was required due to the inability to obtain a visitor visa for the reason outlined in 2). This has presented many hurdles – ultimately he ended up on a Bridging Visa A. According to the company, "As we had never needed to apply for this visa stream we engaged the companies Visa Agent to assist so has also added significant cost to a visa application that ultimately needs to be withdrawn once the seafarer is back home so he can then apply for a new MCV for his next contract on the vessel"
4. At one time it looked as though the seafarer was going to be banned from re-entering
5. A standard extension of say, 3 months, for MCVs is sought to avoid these issues occurring again.
6. The last thing anyone wants is a situation where a seafarer is left without a visa and/or is banned from re-entering the country.

Issues: Crew entering the country

1. There are issues for the various visitor visa options – the health check being amongst those as most seafarers come from nations that are not on the low risk countries list. Moving around to get the health checks done is not straight forward at the moment and it is disappointing that Australia is asking seafarers to expose themselves to health checks that include chest x-rays (which are not harmless and should not be undertaken any more often than absolutely necessary) and the like because using this visa pathway is more straight forward for us as a nation than changing the regulations to extend the duration of transit visas.
2. Australia must find a better way - amending the regulations to allow for transit visa extensions or, waive these checks for seafarers that are being forced into this pathway.
3. It has not been possible for companies to communicate directly with the visa section regarding issues such as system outages because the visa section has requested all communication be channelled through peak bodies. This isn't a great system as it means that those experiencing problems and those that can fix the problems cannot communicate directly when the issues are happening 'live'.

Exacerbating issues:

1. The States are being inconsistent with the application of their own border directions. For example, where they have provided and exemption to hotel quarantine for a seafarer on one occasion, the company assumes that they will get exemptions next time they apply. When those exemptions are not provided, we end up with situations where seafarers have entered the country without a visitor visa and the situation becomes urgent.
2. International passenger cap – crew are being bumped from flights which puts pressure on the entire system as this means that the crew they are relieving must stay (and therefore perhaps get closer to the expiry of their visas).

The system has so many parts at the moment – the source nations, the flight schedules, the passenger cap, border closures, inconsistent hotel quarantine requirements – which all contribute to situations whereby seafarers find themselves in need of practical, flexible visa options. With the right visa options in place, the need for priority treatment and urgent issues will reduce dramatically and lessen the workload on everyone. The Australian visa issues are causing real issues for crew changes at the moment and the situation is getting worse, not better.

## Crew changes - domestic

Australia's very small pool of maritime skills, combined with state border closures, mandatory quarantine periods and limited air transport options for crew due to COVID-19, has put our domestic industry and its workforce under significant additional pressure.

In some circumstances, crews working a 4 to 6 week shift in a state other than the one they live in, quarantine for two weeks before joining a vessel, and again for two weeks in their home state. This has had significant impacts on crew wellbeing.

The impacts of border closure on seafarers' families and crew wellbeing will no doubt accelerate and exacerbate Australia's maritime skills issue. Many seafarers will leave the profession due to these intolerable stresses.

We have also seen cases of particular hard border closures meaning seafarers who are residents of that state and working in a different state being denied entry to their home state where a shipowner is trying to repatriate them both at the conclusion of their swing and on medical grounds. States that refuse employee seafarers the ability to be repatriated to their home (even with quarantine) could be preventing Australia from complying with its obligations under the MLC. It is not only foreign seafarers whose MLC rights may be being contravened through this crisis.

## Seafarer access to medical care

Throughout the pandemic there has been several circumstances whereby seafarers requiring Non-COVID related medical care have not been provided it due to transmission fears related to COVID-19. Cases of this in Australia that we are aware of are very limited and we hope that we will see no future cases and that medical care for all seafarers in Australia can be guaranteed into the future.

Furthermore, there are no nationally consistent protocols for the treatment of COVID positive cases that may arise on board a commercial vessel. While there have been very few cases globally, as the necessity to conduct crew changes has picked up and the frequency of changes increases the rate of cases is growing and it must be expected that there will be more in the future. These should not come as a surprise to us and we should be well prepared to handle them in a way that does not cause alarm or elicit unhelpful reactionary measures.

Australia must develop a nationally consistent approach, where possible, to the treatment of COVID positive seafarers, that recognises the human biosecurity risks to Australia and the ship concerned, but also most importantly, the health and welfare considerations of the seafarer/s concerned.

The International Health Regulations state parties shall not refuse to grant 'free pratique' (permission to enter a port, embark or disembark, or discharge or load cargo or stores) for public health reasons, notwithstanding that granting of this may be subject to vetting.

Key solutions that industry needs delivered by Government(s):

1. Marine crews, specialists (marine technicians and quality assurance inspectors, such as SIRE inspectors and ISM auditors) must be considered essential maritime workers.
2. Access across borders needs to be guaranteed (i.e. no hard border closures) for essential maritime workers. This includes going to work and returning to their residence.
3. Access to international flights needs to be secured for essential maritime workers – whether this is having them:
   3.1. allowed in excess of the incoming passenger cap; or
   3.2. exempt from incoming passenger cap; or
   3.3. required to be taken as priority passengers by the airlines.
4. Sufficient quarantine hotels need to be guaranteed for essential maritime workers (where quarantine is required), or provision of dedicated crew hotels or the ability for companies to provide appropriate isolation facilities.
5. Access to visas needs to be much more straight forward given the number of moving parts that are in play at the moment
   For maritime crews
   5.1. Extension of transit visas is by far the most straight forward option
   5.2. Automatic extension (3 months) of an MCV should be applied.
   For specialists
   5.3. Priority processing of their visa applications.
6. Protocols for handling of COVID positive cases on board – scenario plan for locations with and without shore facilities (hospitals, quarantine hotels);
7. Ensure COVID tests are available for essential maritime workers at all times;
8. Removal of mandatory quarantine periods and allow seafarers to join their vessels as soon as possible (in line with IMO crew change protocol);

## ToR: Supply chain integrity / assurance to critical enablers of Australian security (such as health, economic and transport systems, and defence)

## ToR: Implications for Australia's Foreign Affairs, Defence and Trade policy, particularly with respect to strategic alliances and regional security;

As highlighted above, the ability of the Australian industry to retain a pool of suitably qualified people has diminished due to the loss of the trading fleet and continued cyclic boom/bust nature of the offshore sector (the two major fleets capable of conducting training of seafarers to the level required for our strategic skills need). Australia now relies almost exclusively on international ships, foreign crews and international companies to maintain our international and domestic supply chain security.

For an island nation, with an extraordinarily large shipping task this is an uncomfortable and regrettable circumstance to be in, and the COVID-19 global pandemic has further exposed this national vulnerability.

It is critical that the discussion relating to the importance of supply chain integrity and assurance to the economic prosperity, health and security of the Nation looks at the broader context in terms of risks and opportunities. The continual decline in Australian based maritime economic activity puts at risk Australia's sovereign industrial capability. The role of the maritime sector in delivering integrity to that capability is crucial and not limited to the basic delivery of goods, but the provision of critical infrastructure and skills.

If/when international ships stop because:

1) Crew walk off the job and demand to be repatriated home; or
2) Shipowners refuse to sail their ships with crew that do not have compliant contracts; or
3) Australia begins to vigorously uphold their international obligations to seafarers rights and welfare and insists they be relieved before the ship can sail;

Because the world has failed to properly understand and rectify the situation for global seafarers, Australia is entirely exposed and is at the mercy of other nations to keep their ships moving and their seafarers working to service our needs.

Australia's maritime supply chain has been under significant strain during the pandemic due to the difficulties in moving people across national and state borders. It is very common for Australian seafarers to travel across state borders to go to work/join a ship and the current maritime skills shortage means that there is no redundancy in the workforce to crew ships with people located in that state.

Notwithstanding the significant impacts this has in the human rights context as highlighted above, disruptions to operations due to inability to access required crew is forcing some businesses to the edge of economic viability. This is not because of pandemic shut down, but issues specific to the pandemic such as the treatment of essential workers moving across borders, and the historical lack of positive policies that value and foster the Australian maritime industry.

There is no doubt that as we recover from this crisis, Australia's maritime capability will have retracted further. This is not in the national interest.

### Australia's essential maritime industry

As has been the case on numerous occasions prior to the pandemic - during bushfires, floods, cyclones and bridge collapses - maritime assistance and support is crucial to the ongoing safety and wellbeing of affected communities and the Australian population as a whole.

Never was this more evident than during the bushfires over the 2019/20 summer when vessels supported communities in Victoria, NSW and South Australia at the height of the fires and in the evacuation and rebuilding effort that was required afterwards. As we discovered, maritime support during bushfires is even more important due to the restricted aviation capability due to persistent smoke.

The challenges presented by the COVID-19 crisis in having reliable access to shipping services has again highlighted the benefit of national capability, and importantly, the urgent need to build that capability, particularly considering the immense issues relating to cross-border movements of maritime crew.

The benefits to the nation of having maritime companies and maritime capabilities, including wharves & maintenance bases as well as vessels, based in Australia must be recognised.

Not just for the support that is provide at the time of the crisis – which can be anything from provision of vessels to shelter on, as a means of evacuation and to provide essential supplies, through to the provision of gangway/jetty infrastructure to allow aid to be delivered - but for the role they play in rebuilding remote, regional and island communities after major events. And beyond that there is the critical work replacing channel markers, rebuilding wharves and removing debris to ensure that our ports keep operating and our trade lanes are safe.

It (almost) goes without saying that there is the essential function provided at sea of protecting our environment by providing emergency towage and salvage capability to ensure vessels in distress do not run aground or otherwise cause damage. Assets we could not be without but don't often think about.

There is a definite and considerable public good element to having maritime assets and people across all the sectors – domestic commercial vessels, bluewater, offshore, cruise, towage, etc. Each sector has played a part in this and other crises.

During all major crises, shipping must go on.

## ToR: Policy and practical measures would be required to form an ongoing effective national framework to ensure the resilience required to underpin Australia's economic and strategic objectives;

There is no doubt that the ongoing resilience of Australia's international and domestic trade links, as part of our broad industrial sovereign capability, is critical to ensuring we can achieve our economic and strategic objectives. Australia's maritime industry forms an essential part of that. The COVID-19

global pandemic has highlighted some specific and practical elements that need to form part of any policy to build resilience in the face of such 1 in a 100-year events.

### Short term - movement of essential workers across international and state/territory borders

Notwithstanding the fact that the COVID-19 global pandemic has presented circumstances not experienced before, the chaos that has arisen as a result of the state and territory governments acting independently and with little to no communication with industry to implement multiple and ever changing border closures has created immense hardship for employees as mentioned above, and maritime businesses. These impacts go well beyond that which are necessary and could have been avoided with a more coordinated and consistent approach that prioritised communication with effected industry.

Australia requires a consistent, nation-wide policy on the movement of essential maritime workers between national and state/Territory borders as part of any policy development action to prepare for future events. The policy should be accompanied by protocols for dealing with the many circumstances that arise as a result, such as:

- Communication with affected industry
- Crew changes
- Ensuring access to medical care for injured seafarers (non-COVID)
- Dealing with a disease case on board (COVID)

Many of these protocols have already been developed internationally, and by the more proactive Australian states, such as Queensland as the crisis has unfolded. The industry is very conservative in their risk management approach.

Critical to this is addressing the visa system. Australia's visa system is inflexible and has created many practical issues in relation to the ability of foreign seafarers to legally undertake their required 14 days quarantine upon entering Australia for the purpose of joining a ship. This has created a significant additional barrier to the ability for Australia, as a signatory to the MLC, to do our bit and assist in the many urgently required crew changes.

### Long term - broad, long term options to improve Australia's maritime resilience

Australia must build redundancy, integrity and assurance in the reliability of Australia's maritime supply chain. To achieve that goal, and build our sovereign industrial capability, we must create the policy conditions, as other maritime nations have, for a vibrant and sustainable Australian maritime industry.

There is a very strong rationale for Government to enact positive policies that would encourage maritime businesses to have significant Australian presence and to ensure the diverse range of assets required are available – particularly during times of crisis.

An island nation cannot afford to continue to overlook and undermine an industry that provides so much support and capability in times of need. It is time to recognise the breadth of the capability that we have and the willingness of these businesses to assist. Australia's strategic maritime capability must be considered across a diverse range of assets and expertise, to ensure Australia's broader interests are also protected.

#### *The Strategic Fleet & the National Interest*

Australia already has a considerable Strategic fleet - vessels that the Government sees fit to own/operate/charter such as the Defence and Border Protection fleets, the Antarctic Division Ice Breaker, CSIRO research vessel and AMSA emergency response vessels.

The Australian maritime industry is a dynamic and diverse sector that includes businesses already heavily invested in providing support services to Australian government fleets and has a proud history of working together and supporting our nation's needs. MIAL proposes expanding the existing strategic fleet to include commercial vessels for the dual purpose of providing the employment and training platforms needed to meet Australia's strategic maritime skills requirement, and to also increase Australian supply chain security.

Internationally there are examples of broader concepts of Strategic Fleets - regimes adopted by the United Kingdom via the Royal Fleet Auxiliary and United States of America via the Military Sealift Command. And of course, both these nations also have significant nationally flagged fleets that could be requisitioned if required.

However, the circumstances of Australia are potentially quite different and the utilisation of merchant marine capability by other nations defence forces across a much broader area of operation is instructive. This could mean that an appropriate strategic fleet for Australia is not as heavily influenced by the military and defence needs of the nation but may be more aligned with supply chain security and trade facilitation and seafarer officer, training given our reliance on sea transport and the potential vulnerabilities laid bare by the COVID-19 global pandemic as outlined above.

In determining the vessels and trades that should make up an Australian Strategic Fleet, an appropriate test to apply could be to identify where there is sufficient cargo to warrant a stable and permanent presence.

### *How to create a Strategic Fleet*

The market has determined that Australian ships with a full Australian crew component are uncompetitive in almost all Australian trades. This is due to the significantly higher operating costs, particularly wages, and that lack of effective tax incentives and or regulatory structure that are in place in all other shipping nations to encourage ship ownership. If the objective of the Strategic Fleet is to have vessels of certain types available to secure Australian supply chains and/or be available for requisition, then these vessels need to be identified and incentives put in place to secure them.

The industry has suggested that this could be at least partially funded by redirection of current costs imposed on the industry that result in no benefit to Australia[3].

Equally, there is a strong rationale for Government support.

In 2013/14 the public funding (from all Governments) provided to road and rail was:

- ~$25 Bn (Commonwealth, State/Territory and Local) for road; and
- ~$8.3 Bn (Commonwealth and State/Territory) for rail. [4]

Further, it is estimated that each one per cent increase in freight efficiency saves the national economy $1.5 billion.[5] There is little doubt that with the right policy settings shipping could deliver at least a 1% efficiency gain.

A fraction of the expenditure provided to road and rail would greatly enhance the competitiveness of shipping vs those modes and increase the market share of this form of transport, with resultant economic and environmental benefits. Specifically, public investment in the infrastructure to encourage dedicated coastal ro-ro services for containerised cargo and trucks was identified as being

[3] Coastal Trading Green paper, A Maritime Transition, 2016
[4] ABS (2015 c,e & h), BITRE estimates
[5] NSW FREIGHT AND PORTS STRATEGY, November 2013

something that would likely have immediate impact and provide confidence to investors to provide that transport option.

By way of example, a Strategic Fleet made up of 20 vessels would result in ~850 permanent jobs (~100 ashore and 750 at sea), provide training for ~100 seafarers each year and require $140m annually in support, which equates to approximately 1.6% of the rail funding or 0.56% of the road funding allocation in 2013/14.

This represents a significant return on investment with the result being an ongoing secure, reliable source of trained maritime professionals with the essential skills to run our nations ports, pilot our visiting ships in to berth and ensure safety and environmental standards are upheld. Not to mention having a critical mass of assets available to look after the national interest, should that be required.

Until Australia has a regime that supports a level of local content in our shipping task, we will not see certainty and stability in the sector and industry will continue to be wary of investment. With the complete demise of the industry, Australia further relinquishes control over critical supply chain links along with the associated essential strategic maritime skills.

With appropriate forms of support in place, the commercial interests that would be expected to use the Strategic Fleet ships would be in the same position commercially as they are now - but the nation will have secured assets that fill certain national interest requirements.

### *The possible makeup of a Strategic Fleet*

Government vessels (these represent the existing 'strategic fleet' already as the Government has seen fit to own/operate them):

- Australian Antarctic Division
- CSIRO
- Australian Maritime Safety Authority
- Australian Border Force

Defence vessels, including those in support roles

- Refuelling vessels
- Submarine Support
- Training
- Towage
- Other support vessels

Commercial

- Tankers – liquid and gas (national fuel security; chemicals for use such as water treatment)
- Cruise ships (personnel transport/hospital)
- Ro/ro and landing barges (LHD supplement; essential national supply chains – Tasmania and Northern Australia and National crisis and emergency response)
- Break bulk (military support)
- Container (essential national supply chain – pharmaceuticals, and foreign aid)
- Dry bulk (phosphate for fertiliser)
- Bunker barges (in port support craft)
- Tugs (in port support craft)

*Sustainable, Australian maritime enterprise - 10 point priority plan*

MIAL's vision is for strong, thriving and sustainable maritime enterprise in the region. This activity can occur anywhere: coastal, offshore and international; and should encompass everything – freight, tourism, passenger movement, port and harbour services, offshore oil and gas, construction, scientific/research, essential services, and government services. MIAL's 10 point plan to achieving this is outlined below.

1. Acknowledge and address the maritime Skills Shortages - skilled mariners must be secured for the nation and policy and financial support is required to achieve this; and
2. Establish a Strategic Fleet - these vessels will provide: the platforms on which our skilled seafarers can train and work; assets available to the nation in times of need; and secure certain supply chains; and
3. Extend Seafarer Income Tax settings to allow more Australian seafarers to work overseas; and
4. Make Corporate Income Tax settings internationally competitive and maximise the benefit to Australia by broadening the base of activity that qualifies to include all vessels regardless of what 'work' they do; and
5. Abolish Seacare – this regime is out of step with community standards and too small to survive. An orderly exit must commence to avoid an implosion of the scheme; and
6. Make the AISR competitive and fit for purpose for the Australian circumstance – including operating in coastal activities; and
7. Adjust Coastal Trading Policy - remove the red tape, remove the need to pay Part B wages, move away from port pairs, and more; and
8. Rewrite the DCV laws to make them simple and effective and cease the cross subsidy that is currently funding DCV service delivery by AMSA; and
9. Amend Customs requirements to benefit the country not drive business away; and
10. Manage port pricing to avoid monopolistic behaviour.

The details of each of these elements is outlined below in Annex 1.

# 1. Skills

The Seafaring Skills Census, identifies a definite shortfall, some 560 by 2023, in the number of people the industry projects that it will need. As the world's largest island nation, Australia requires maritime skills more so than most other countries. From the requirement to ensure trade is facilitated within Australian ports without incident via the provisions of Harbour Masters, Marine Pilots, Vessel Traffic Service operators; to ensuring we meet our international responsibilities as a country with one of the largest port state control task; the use, retention and development of maritime expertise is vitally important.

## Recommendations

1. Better coordination of training berth usage across the Australian maritime sector.
2. A working group should be established to consider all the issues and implement solutions as quickly as possible.
3. The issue of cost being an impediment to training sufficient seafarers to meet the nations' requirements must be overcome.

*Photo courtesy: Brian Cutler*

# 2. Strategic Fleet

Increasing training without securing opportunities to work to gain experience will not achieve an outcome of growing skills, expertise and knowhow to fill the strategic shore based roles Australia relies upon.

Australia needs a minimum number of assets available to provide the training and work opportunities.

MIAL supports the concept of a Strategic Fleet. Such a fleet would provide adequate training and work opportunities to secure the skills base, provide stability for key supply chains and offer strategic support to the nation should they ever be called upon.

All nations with an indigenous shipping capability either protect, subsidise or incentivise the sector. Australia must do likewise to create a pool of assets to train our essential maritime skillset.

## Recommendations

1. A Strategic Fleet should be established to operate commercially on a competitive basis.

2. Vessels to form part of the Strategic Fleet to be determined based on a range of factors including: where there is sufficient task to warrant a stable and permanent presence for a vessel; or where provision of a vessel of a certain type serves a key national requirement – say for skills development, supply chain security or national capability.

In order to be competitive:

1. The cost differential between a Strategic Fleet vessel and a foreign vessel must be eliminated. Funding to be provided via:

   a) A redirection of the wages top-up payments currently made pursuant to the Fair Work Act (FWA) and Seagoing Industry Award Part B wages (administered via a simple, fixed levy imbedded within existing AMSA levy structures; and

   b) A retainer provided by the Commonwealth Government.

2. Contemporary employment practices must be adopted:

   a) The niche commonwealth seafarers workers compensation scheme, Seacare, should be abolished and coverage be provided by the States and Territories, which already cover the majority of maritime workers in Australia; and

   b) Terms and conditions of employment be established based on Greenfields Arrangements, not previous Enterprise Agreements which have driven costs to unsustainable levels; and

   c) Continuity of operations must be assured.

# 3. Seafarer Income Tax

Australian resident seafarers must be able to accept employment at rates competitive with their international counterparts - most of whom are not subject to income tax in their home countries, which is reflected in their gross salaries.

## Recommendations

MIAL proposes that amendments to the Seafarers Tax Offset should:

1. Provide complementary seafarer income tax structure for those not employed by Australian companies or on Australian flagged ships (to ensure that Australian's are treated on an equivalent basis as their international counterparts).

2. Provide for the Seafarer Tax Offset to be available to Australian crew – even if not working internationally, in order that the operating cost of the ship can be reduced (i.e. cost saving rests with employer) thereby increasing the competitiveness of a ship employing Australian workers. Extending the tax exemption to seafarers working in Australia as well as overseas will avoid a perverse outcome.

3. Extend application of taxation structure to include individuals working on a broader range of vessels across the maritime domain, including the offshore sector.

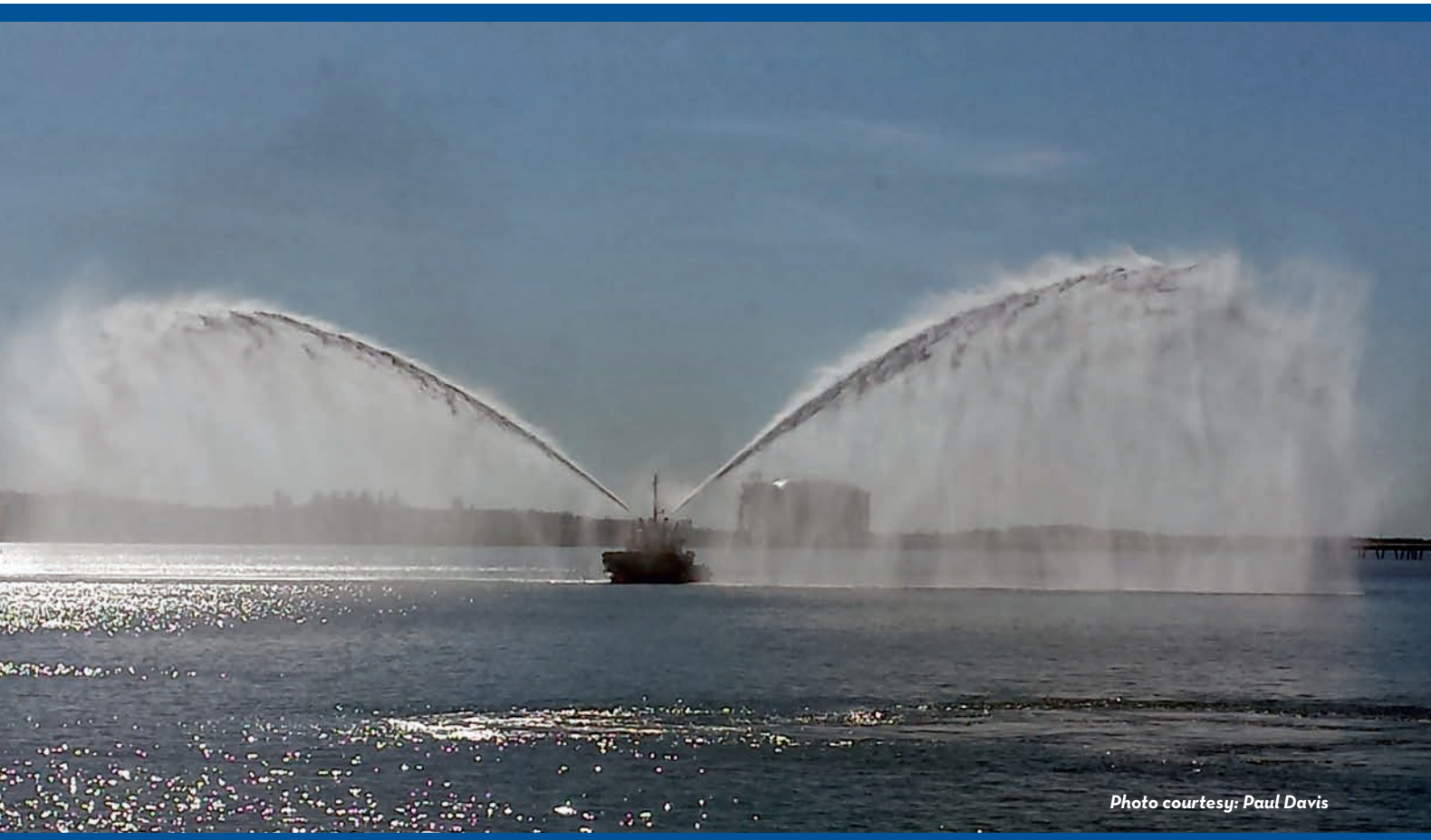


*Photo courtesy: Paul Davis*

# 4. Corporate Income Tax

Shipping is a highly mobile business and, given the national benefits that accrue from having a robust shipping industry, jurisdictions that offer favourable corporate taxation treatment for shipping are many. The lack of attractiveness of the Australian corporate tax treatment vs international comparisons explains why only those ships are already here utilise the current taxation measures rather than attracting more ships to be owned/controlled from Australia.

## Recommendations

1. Introduce deemed franking credits in respect of dividends to resident shareholders, to make vessel ownership and/or operation from Australia more internationally competitive.

2. Introduce dividend withholding tax exemption in respect of dividends to non-resident shareholders, to make vessel ownership and/or operation from Australia more internationally competitive.

3. Extend application of taxation structure to assets operating across the maritime domain including the offshore sector.

*Photo courtesy: Brian Cutler*

# 5. Seacare

## Recommendation

The Seacare Scheme should be abolished and the employers and workers currently covered by it to revert to the clearer, more widely understood and more consistent state and territory scheme coverage, which already cover the vast majority of maritime works in Australia.

This would result in better safety outcomes for employees and reduced cost for businesses.

The reasons for abolishing Seacare are listed below:

1. All Australian workers are covered for compensation, rehabilitation, return to work and occupational health and safety regulatory schemes. The vast majority are covered by State (and Territory) based schemes while Commonwealth employees, Defence employees and a handful of very large organisations are covered by Commonwealth schemes.

2. Seafarers are covered by either a State (or Territory) scheme or by the 'Seacare' scheme, depending on what vessel they are working on and what that vessel is doing.

3. The Seacare scheme covers ~35 employers and some 5,140 employees, making the scheme Australia's smallest by a considerable margin[1] (the next smallest scheme is the Defence scheme with over 100,000 people). There are tens of thousands of others who work in the domestic maritime industry that are covered by state and territory schemes.

4. The Seacare scheme is Australia's only private sector and privately underwritten industry specific work health and safety and workers' compensation scheme.

1. Seafarers Safety Rehabilitation and Compensation Authority Annual Report 2014-15 scheme snapshot

5. The "industry" in which the scheme operates is principally described as the blue water and offshore sectors, both of which have undergone several years of contraction recently.

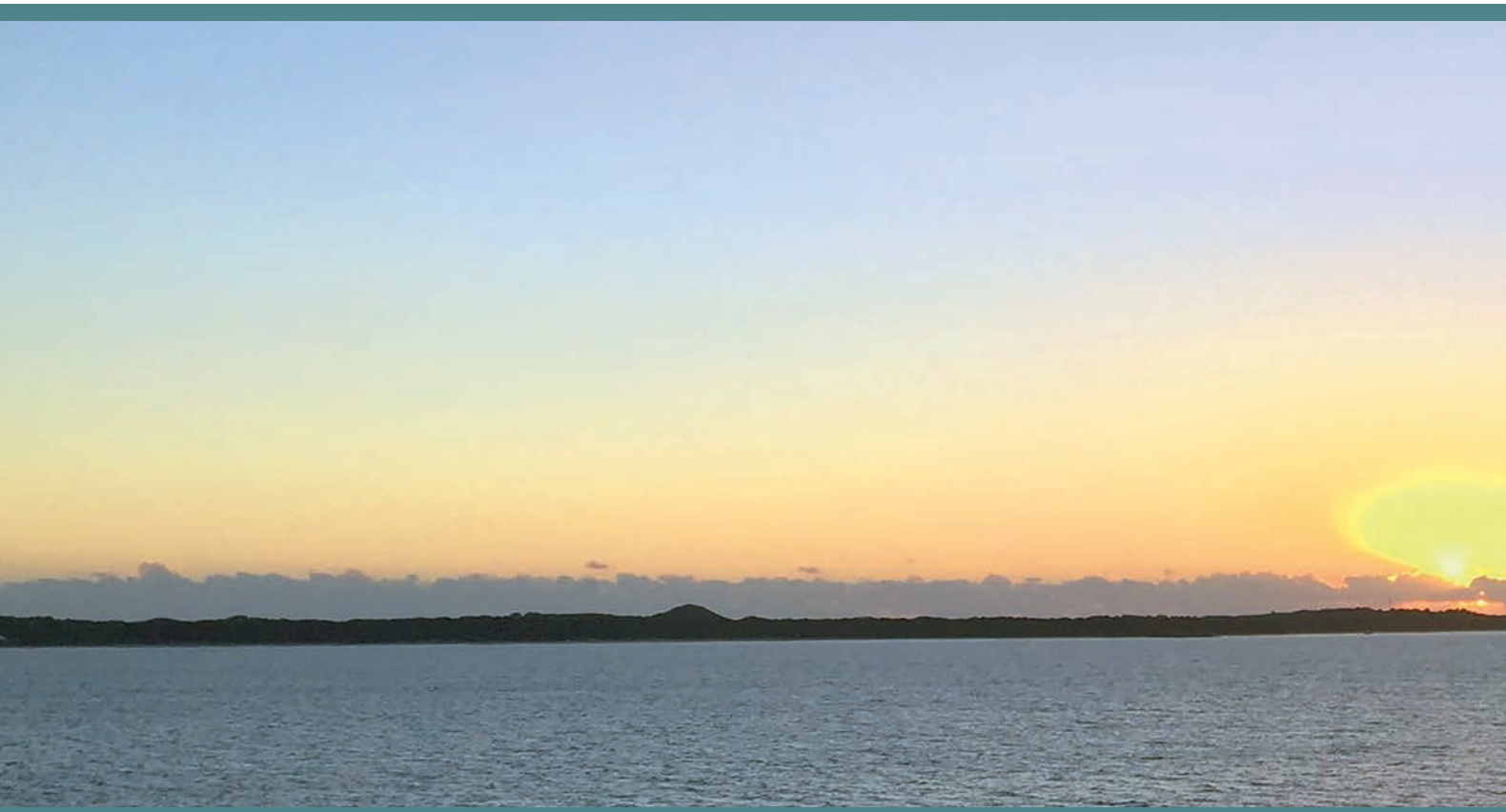
6. The Seacare scheme was introduced in 1992 and has been the subject of numerous reviews. A Full Federal Court decision in late 2014 which decided coverage of the scheme far exceeded industries understanding, has exposed an already non-viable scheme to insurmountable risk.

7. The certainty in scheme coverage places a significant and unjustified cost impost on employers and exposes the Safety Net Fund to future claims, which will be required to be covered by all known scheme participants.

8. The Seacare scheme does not produce great results. Injury rates are high; rates in claims are high; claims management can be poor; return to work is low and it is expensive[2].

9. There is no justification for an industry specific Work, Health and Safety framework and so it is illogical to maintain an industry specific workers' compensation scheme.

2. Comparison of workers compensation arrangements in Australia and New Zealand, 2013-2014, pg. 197.



# 6. Australian International Shipping Register (AISR)

An international register is a feature of some of the most vibrant economic maritime clusters the world over and a key reason why international shipping costs are kept low. The AISR provides the opportunity to have a vessel flagged in Australia and requires the most senior positions on board to be filled by Australians, thus growing the strategic skills base the nation requires.

## Recommendations

Changes that are required to improve the attractiveness of the AISR are:

1. Broaden the types of vessels/activities that are eligible to "maritime activities".
2. Remove requirement to spend more than 50% of time working internationally.
3. Require a minimum Australian crew component rather than designated roles.
4. Remove reference to the Single Bargaining Unit as the exclusive means of determining terms and conditions on board AISR vessels.
5. Streamline the process of obtaining certificates of equivalence for seafarers.
6. Improvement to the survey process and requirements for re-flagging in Australia.

# 7. Coastal Trading

The need for certainty and stability of coastal shipping policy settings remains as critical now as ever before.

The current regulations around coastal trading must be amended to increase pragmatism and accommodate interests of all parties.

We need to think differently about how Australia could maximise the natural advantages we have to be a shipping nation; and just as the AISR and the Strategic Fleet play a role, so too can our coastal shipping task.

Increased shipping activities particularly in regional and remote areas generates employment opportunities within that community. A small amount of these may be on board ships but a much larger volume of employment opportunities would be afforded to those maintaining shore side infrastructure within terminals and ports, those providing services to the operations as well as the opportunity to develop critical services such as ship repair and dry docking facilities if the market is such to sustain these.

These process improvements are clearly described in the Maritime Green Paper[1] and would result in almost all voyages being undertaken with the bare minimum of paperwork and approvals. Most would not even require an application, far less a variation, under the proposals put forward. And this is possible precisely because the vast majority of coastal trading is undertaken by foreign ships.

Importantly, these changes can liberate the vast majority without destroying the fabric of the regime that offers fair and reasonable checks and balances for what is left of the Australian industry or any future introduction of an Australian ship into trade.

1. MIAL Coastal Trading Green Paper - A Maritime Transition, 2016.

## Recommendations

The following changes should be made:

1. Streamline the licence application process including removing the restrictions on some temporary licenses and the voyages undertaken therein.

2. Minimise the scope of decision making by the Delegate by introducing commercial principles where possible, including a maritime arbitration facility to resolve commercial disputes and ACCC oversight to monitor pricing in monopoly trades.

3. Introduce special arrangements for essential service operations consistent with those available for the national highway, i.e. the Tasmanian Freight Equalisation Scheme (TFES) should be implemented.

4. The trade across Northern Australia including the communities in Torres Strait should be considered "essential services" and changes to the definition of voyage in the Coastal Trading Act be made to recognise 'the network of voyages' be adopted for "essential services".

5. A determination needs to be made regarding the appropriateness of expedition cruising being included within the jurisdiction of coastal trading (economic regulation) at all.

The following further changes to the AISR in relation to coastal trading should be made:

1. Provide AISR ships with preference over Foreign ships when issuing Temporary Licences.

2. Fix ambiguity regarding FWA implications when under a temporary licence and not covered by Part B (i.e. first two voyages).

# 8. Rewrite DCV Laws

MIAL supports a National System for our domestic commercial vessel (DCV) fleet. Consistent national laws are necessary to ensure a higher degree of efficiency and safety for our maritime industry. However, there have been, and continue to be significant challenges with transition to National System arrangements which have resulted in legislation which is overly complex and lacking in clarity.

MIAL welcomed the additional government funding allocated to support the National System transition, in recognition of the high value of the DCV sector to the Australian economy. However, the unsustainable cross subsidisation that is occurring between sectors of the maritime industry, that is being exacerbated by further delays in agreement on cost recovery, must come to an end.

## Recommendations

1. In order to create a regulatory regime that is fit for purpose and can achieve its objectives of increased consistency, safety and overall efficiency in the DCV sector, an entire rewrite of the National Law is necessary and AMSA, and/or the Department of Infrastructure and Regional Development and Cities must be properly resourced to do so.

2. The cross subsidisation that is occurring between sectors of the maritime industry must come to an end. AMSA must be clearly instructed and have in place proper governance arrangements to ensure that the promised Government funding for services to the DCV sector is being utilised for that purpose, rather than levies collected from Australian and foreign vessels covered by the Navigation Act 2012.

# 9. Customs

In recent years, there have been a number of issues relating to Customs importation of vessels which has resulted in unsustainable and costly additional burden to industry, with little or no benefit to the nation. Furthermore, there are a number of circumstances whereby threatened importation has resulted in operators taking a significant amount of business elsewhere.

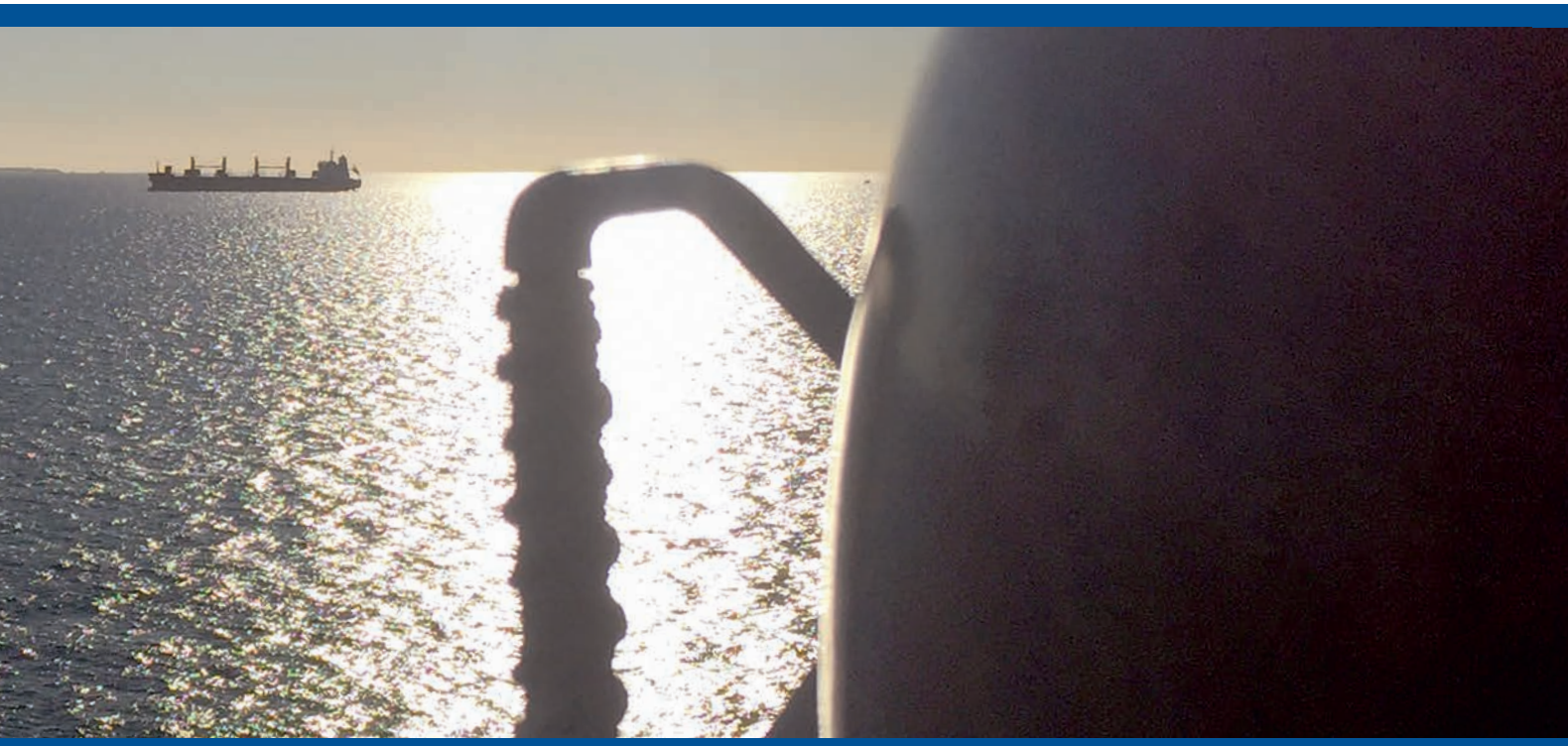
In MIAL's view, dealing with these issues through the Customs Act should be a matter of priority.

## Recommendations

1. Provide for circumstances whereby importation is not in the 'national interest' (e.g. a ship temporarily used as a storage facility)

2. Introduce a timeframe during which vessels in Australia will not be deemed imported (e.g. 90 consecutive days)

3. Exempt vessels using Australian dry-dock facilities from importation.



# 10. Ports and Port Pricing

### Encouraging Greater Use of Ships & Shipping

Encouraging greater use of shipping as a transport mode, regardless of the Australian component involved in the ship, requires port access and port pricing to be competitive. A recent report[1] highlights a worrying development in the unprecedented rise of fees and charges at some of Australia's major ports.

## Recommendations

1. Provide discounts / exemptions to Australian ships for port and regulatory fees.
2. Invest in dedicated coastal ship terminals as critical infrastructure.
3. Ensure port planning processes provide priority access to ports and berths for Australian ships and shoreside facilities for their cargo and other needs.
4. Port charges to be monitored and action taken to prevent unreasonable increases;
5. A review into dedicated coastal ro-ro services should be undertaken to assess viability

### Lower transport Emissions

The advantages of ships versus other transport modes is unquestionable.

1. According to the Australian Logistics Council research, for every 1% increase in efficiency in the Australian national supply chain there is a $2billion benefit to the Australian economy.[2]
2. There is little doubt that with the right policy settings shipping could deliver at least a 1% efficiency gain.
3. A fraction of the expenditure provided to road and rail would greatly enhance the competitiveness of shipping vs those modes and increase the market share of this form of transport, with resultant economic and environmental benefits, particularly with regard to Australia's growing transport emissions

1. Media Release; Roma Britnell MP, Shadow Minister for Ports, Wednesday 20 February 2019, Labor fails to explain massive port cost increases
2. ACIL Allen Consulting The Economic Significance of the Australian Logistics Industry (2014)

## Annex 2 - Terms of reference

The Joint Standing Committee on Foreign Affairs, Defence and Trade will inquire into the strategic implications of COVID19, having particular regard to:

- Implications for Australia's Foreign Affairs, Defence and Trade policy, particularly with respect to strategic alliances and regional security;
- Threats to the global rules based order that emerged due to actions by nation states during the pandemic, and how such threats can be mitigated in the event of future crises;
- The impact on human rights;
- Supply chain integrity / assurance to critical enablers of Australian security (such as health, economic and transport systems, and defence);
- What policy and practical measures would be required to form an ongoing effective national framework to ensure the resilience required to underpin Australia's economic and strategic objectives;
- Any related matters.